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Honorable Edward F. Shea

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUN 22 2005

JAMES R. LARSEN, CLERK
DEPUTY
RICHLAND, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

BETTY WASKO,

Plaintiff,

v.

CHICAGO TITLE INSURANCE
COMPANY, a foreign corporation,

Defendant.

No. CV-04-0364-EFS

STIPULATED PROTECTIVE
ORDER REGARDING
CONFIDENTIAL
INFORMATION

Plaintiff Betty Wasko ("plaintiff") and defendant Chicago Title Insurance Company ("defendant") through their respective counsel of record, hereby stipulate to this Protective Order Regarding Confidential Information ("Protective Order") as follows:

1. Confidential Information. "Confidential Information" as used in this Protective Order shall mean any information disclosed in this proceeding, whether disclosed in an interrogatory answer, during a deposition or other testimony, in a document, or otherwise, that any party or third-party reasonably and in good faith designates as "Confidential" irrespective of by whom produced and which relates to the following types of proprietary information:

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1 technical information, trade secrets, financial information, operational
2 information, business plans, personnel information and health care information.
3
4 If sensitive proprietary information is sought from a party, that party reserves
5 the right to petition the Court for such additional protections from disclosure as
6 may be necessary.

7
8 Any Confidential Information as defined above may be designated as
9 Confidential by marking the term "Confidential" upon written documents or by
10 a statement to that effect at the time of deposition or other testimony is taken.
11
12 The designation of all or any portion of any testimony as "Confidential" extends
13 to the transcript of such testimony and any notes or recollections of such
14 testimony. Within thirty (30) days of receipt of each transcript from the court
15 reporter, the party that designated, at the time of testimony, or wishes to
16 designate any portion of that testimony as confidential must provide written
17 notice to all parties of the specific pages and/or exhibits so designated. Unless
18 otherwise agreed by counsel or ordered by the Court, and subject to Paragraph 2
19 below, if no written designation is provided within thirty (30) days, no portion
20 of the transcript shall have a confidentiality designation. Prior to such
21 designation or expiration of the thirty (30) day period, the entire deposition
22 transcript shall be deemed confidential information.
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1 2. Reasonable Efforts. The parties and third-parties shall use
 2 reasonable and good faith efforts to designate Confidential Information only as
 3 necessary to protect their respective legitimate interests. If any information,
 4 including testimony, is initially undesignated and a party later determines that
 5 the information is confidential, it shall notify the other parties, and third-parties
 6 if necessary, of the new Confidential Information designation. The new
 7 designation will be effective upon receipt of such notification.

10 3. Filing Confidential Information With The Court. All Confidential
 11 Information, or any pleadings or memoranda or other documents purporting to
 12 reproduce, summarize or paraphrase Confidential Information shall, when filed
 13 with the Court be filed in sealed envelopes or other appropriate sealed containers
 14 on which shall be endorsed the title of this action, an indication of the nature of
 15 its contents, the word "CONFIDENTIAL" and a statement substantially in the
 16 following form:

20 Filed pursuant to Stipulated Protective Order Regarding
 21 Confidential Information by [name of filing Party]. Not to be
 22 opened or the contents revealed except: (1) to the Court and then
 23 resealed; (2) by written agreement of all the parties; or (3) by Order
 24 of the Court.

23 4. Persons Bound By This Order. The persons bound by this order
 24 are:

26 a. All present parties to this proceeding;

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1 b. All individuals, corporations or other entities who later
2 appear as parties to this proceeding;

3 c. The employees, witnesses, agents, and attorneys of both
4 parties, including experts and consultants; and

5 d. All third-party respondents to any discovery request by either
6 party.
7

8
9 5. Obligations of Persons Bound By This Protective Order. No person
10 bound by this Protective Order shall disclose Confidential Information, either
11 directly or indirectly, to any other person other than as provided in paragraph 6
12 below. No person bound by this Protective Order shall use Confidential
13 Information for any purpose other than the prosecution or defense of this
14 proceeding filed in the United States District Court, Eastern District of
15 Washington. The attorneys of record for the parties to this proceeding shall
16 make the terms of this Protective Order known to all other persons bound by this
17 Protective Order and, together with their respective clients, are responsible to
18 this Court for compliance with this Protective Order.
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20 6. Persons Who May Receive Confidential Information. The only
21 persons to whom Confidential Information may be disclosed are:
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1 a. Parties and attorneys of record for any parties to this
2 proceeding, including the paralegals, stenographic and clerical employees
3 associated with the attorneys;
4

5 b. Members of any party's in-house legal staff, including
6 attorneys, paralegals and staff, who are involved in this proceeding;
7

8 c. Third-party experts, consultants and investigators who are
9 assisting the Parties or the attorneys in this proceeding; however, prior to
10 disclosure of any Confidential Information, such third-parties shall agree to be
11 bound by this Protective Order and read and sign an assurance in writing in the
12 form attached as Exhibit A;
13

14 d. Any deponent or any person that a document, on its face,
15 indicates has previously seen or has been sent the confidential information (such
16 as authors, recipients, and copy holders);
17

18 e. Any person upon the written agreement of both parties'
19 attorneys, or upon Order of the Court, and subject to the terms of Paragraph 10
20 below;
21

22 f. The Court;
23

24 g. Any potential witness by attorneys of record for any parties
25 to this proceeding so long as such potential witness agrees in writing to be
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1 bound in writing by this Protective Order, reads and signs an assurance in
2 writing in the form attached as Exhibit A, and that signed form is maintained
3 throughout the proceeding by the attorneys of record who have disclosed the
4 confidential information to such potential witness.
5

6 No Confidential Information may be disclosed, either directly or
7 indirectly, except to the persons specified above in 6(a) to 6(g).
8

9 7. Disputed Confidential Information Designation. If any party to the
10 proceeding believes that designated Confidential Information should not be
11 subject to this Protective Order, the party may provide written notification to the
12 other party. The notice shall clearly specify the designated information and the
13 reason(s) for the belief that the designated information is not properly subject to
14 this Protective Order. The party giving such notice shall not divulge the
15 disputed Confidential Information for fourteen (14) days following service of
16 such notice by the objecting party on the other party. Thereafter, the party
17 contending the information is subject to this Protective Order may bring a
18 motion seeking an Order of this Court that the designated Confidential
19 Information is properly subject to this Protective Order. If such a motion is
20 brought, the disputed Confidential Information shall remain subject to this
21 Protective Order until the Court makes its determination. At the time for
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1 hearing any such motion, the Party asserting confidentiality shall have the
2 burden of going forward with evidence to show that the disputed information is
3 confidential and should be subject to this Protective Order. Any hearing on such
4 motion will be heard *in camera* by the Court. If no motion is brought within the
5 time period designated above in this paragraph, the disputed information will no
6 longer be subject to the provisions of this Protective Order.
7

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9 8. Amendments of Protective Order. Any party may move for relief
10 from or modification of this Protective Order, including the application of this
11 Protective Order and/or the mechanism and need for maintaining confidentiality
12 as provided in this Protective Order. This Protective Order may be amended by
13 Order of the Court or with leave of Court by the written agreement of counsel
14 for the parties to this Protective Order and any pertinent third-parties in the form
15 of a stipulation.
16

17
18 9. Duration of Protective Order. This Protective Order is intended to
19 regulate the handling of Confidential Information during the entirety of this
20 proceeding and thereafter, and shall remain in full force and effect until
21 modified, superseded or terminated on the record by agreement of all the parties
22 to this proceeding and any pertinent third parties or by Order of the Court except
23 that, if at trial a party offers any Confidential Information as a trial exhibit, that
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1 exhibit and the information contained therein shall not be treated as confidential.

2 This Protective Order shall become effective as between the parties when
3
4 executed and with the Court's entry of same. Further, at any hearing before the
5 Judge in this proceeding and any hearing or event other than trial at which any
6 Confidential Information will be presented in Court, any party may ask the
7 Court, for such periods as the Confidential Information is being presented, to
8 consider such information *in camera*, under seal, and under such other
9 conditions and safeguards as the Court may impose to protect against disclosure.
10
11 If any member of the public or a party objects to such, the Court may make an
12 initial *in camera* determination as to whether Confidential Information is likely
13 to be disclosed.
14

15
16 10. Continued Jurisdiction. The Parties and all persons subject to the
17 terms of this Order agree that this Court shall retain jurisdiction, after this action
18 has terminated, for the purpose of enforcing this Protective Order.
19

20 11. Miscellaneous.

21 a. The information protected by this Protective Order is the
22 substance of the Confidential Information, no matter what form the information
23 is in and no matter how the information might be communicated. The parties do
24 not intend to in any way waive the assertion of confidentiality and hereby
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STIPULATED PROTECTIVE ORDER
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1 expressly reserve their rights to assert and preserve the confidentiality of any
2 information disclosed in this Proceeding that is not designated as Confidential
3 Information pursuant to this Protective Order.
4

5 b. Recipients of Confidential Information pursuant to this
6 Protective Order shall exercise reasonable and appropriate care with regard to
7 such Confidential Information to ensure that the confidential nature of the same
8 is maintained.
9

10 c. In the event any person in receipt of Confidential
11 Information shall receive a written or oral request, subpoena, or court order
12 seeking disclosure or another party's Confidential Information, such person shall
13 immediately upon receipt of such request, subpoena, or court order notify
14 counsel for the designating party that produced the Confidential Information of
15 same and shall provide a copy of same if applicable. Except in the case of an
16 order requiring immediate production of the requested information, neither party
17 shall disclose the other party's Confidential Information without giving the other
18 party an opportunity to seek from this Court an order governing disclosure of the
19 requested information.
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24 d. If Confidential Information is disclosed to any person other
25 than in the manner authorized by this Protective Order, the person responsible
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1 for the disclosure shall immediately bring all the pertinent facts relating to such
2 disclosure to the attention of counsel for all parties and the Court, without
3 prejudice to the rights and remedies of any party, and shall make every effort to
4 prevent further disclosure by it or by the person who received such Confidential
5 Information.
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8 e. This Protective Order is made to facilitate discovery and the
9 production of discoverable evidence in this action. Neither the entry of this
10 Protective Order, the designation of any information as Confidential Information
11 under the Order, the failure to make such designation, or the failure to object to
12 such designation by either party shall constitute evidence with respect to any
13 issue in this litigation. This Protective Order shall not abrogate or diminish any
14 contractual, statutory or other legal right or obligation any party may have with
15 respect to information disclosed in this matter.
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18 f. Within thirty (30) days of final termination of this action and
19 except as may be required by subpoena or Court Order, each party or other
20 individual that received Confidential Information subject to this Protective
21 Order shall be under an obligation to assemble and return to the disclosing party,
22 or to destroy, should the disclosing party so permit, all Confidential Information
23 obtained from the disclosing party, including any and all copies thereof. The
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1 receiving party shall provide written notice of the return or destruction of any
2 such Confidential Information, and the disclosing party shall issue written
3 acknowledgment of the same. Notwithstanding the foregoing provisions of this
4 Paragraph, counsel of record for each party shall be entitled to retain all
5 memoranda prepared by them which contain Confidential Information, and
6 litigation and court documents containing Confidential Information that became
7 part of the record in this action, including pleadings, briefs, and exhibits, but
8 such memoranda and litigation documents shall be used only for the purpose of
9 preserving a record of the action and shall not, without the written permission of
10 the opposing party or an order of this Court, be used for any other purpose.
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14 g. Any party or person who knowingly violates this Protective
15 Order may be held in contempt of this Court. The Court and parties preserve the
16 right to order or seek an award of such other relief as is appropriate for such
17 disclosure.
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STIPULATED PROTECTIVE ORDER
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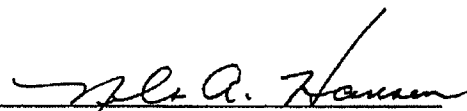
1 DATED this 18th day of May, 2005.

2 PRESTON GATES & ELLIS LLP

HANSEN LAW FIRM

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4 


5 David A. Bateman, WSBA #14262
6 Attorneys for Defendant Chicago
7 Title Insurance Company

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10 Nels Hansen, WSBA #3880
11 Attorney for Plaintiff

12 IT IS SO ORDERED.

13 DATED this 16th day of June, 2005.

14 

15 Honorable Edward F. Shea

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EXHIBIT A

WRITTEN ASSURANCE FOR INFORMATION RECIPIENT

I, _____, hereby declare as follows:

1. I am a representative designated by _____,
a party to this action, pursuant to the Stipulated Protective Order Regarding
Confidential Information ("Protective Order") of this Court entered in this case
on _____, 2005.

2. A copy of the Protective Order has been delivered to me and has
been carefully reviewed by me.

3. I fully agree to abide by the obligations and conditions set forth in
the Protective Order including, but not limited to, the condition that I will not
disclose any Confidential Information, as defined in the Protective Order, to
which I have been given access other than pursuant to the Protective Order. I
further will not use any Confidential Information for any purpose other than the
purpose of this litigation.

4. I further subject myself to the continuing jurisdiction of the United
States District Court, Eastern District of Washington, for the purpose of
proceedings relating to my performance under, compliance with, or violation of
said Protective Order.

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1 I hereby declare under penalty of perjury of the laws of the state of
2 Washington that the foregoing is true and correct.

3
4 DATED this _____ day of _____, 2005, at

5 _____.

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